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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,411	02/20/2002	Avner Schneur	11951-009001	1565
51414	7590	11/16/2005	EXAMINER	
GOODWIN PROCTER LLP			JASMIN, LYNDY C	
PATENT ADMINISTRATOR			ART UNIT	PAPER NUMBER
EXCHANGE PLACE			3627	
BOSTON, MA 02109-2881			DATE MAILED: 11/16/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/081,411	SCHNEUR ET AL.
	Examiner	Art Unit
	Lynda Jasmin	3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 August 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. Amendment received on August 31, 2005 has been acknowledged.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moffett, JR. (2002/0103746 A1), in view of Eder (5,615,109).

Moffett discloses computer-implemented method for satisfying a purchase requisition with the steps of receiving, from each of a plurality of candidate suppliers, a corresponding plurality of bids (box [0060]); determining an optimal award schedule for satisfaction of the purchase requisition (box [0063]).

Moffett however fails to explicitly disclose receiving an offer of a business-volume discount that is triggered when an aggregate purchase of at least one unit of a first qualifying item and at least one unit of a second qualifying item is within a defined volume interval.

Eder discloses the concept of having a profit maximized requisition set is then created that utilizes vendor and unit of measure substitution under a variety of discount schedules to the extent possible within the user specified constraints. Eder further discloses using multi criteria, mixed-integer, and linear program algorithms to calculate the profit maximizing requisition set for business volume discount schedule items. More specifically, the profit maximizing set of requisitions for items purchased under business volume discount schedules on a commitment basis is calculated by an application software and then the profit maximizing set of requisitions for items purchased using as-ordered business volume discount schedules is calculated in a similar fashion. The resulting set of requisitions is designated as the base-level requisitions for the business volume items.

From this teaching of Eder, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the purchasing requisition of Moffett JR. to include the business-volume discount based on purchases of items categories as taught by Eder in order to maximize profit.

***Response to Arguments***

5. Applicant's arguments filed August 31, 2005 have been fully considered but they are not persuasive. Applicants first argue, "Neither Moffett nor Eder teaches or suggests the use of a business-volume discount for an aggregate purchase of two different qualifying items falling within a defined volume interval." The Examiner respectfully disagrees. Eder discloses a system that will determine the base-level requisitions for a collection of items with a mix of item and business volume discount schedules.

Applicants next argue, "Neither Moffett nor Eder teaches the determination of an optimal award schedule. Instead both Moffett and Eder appear to limit selection to a single seller." The Examiner notes that Moffett discloses:

"Sellers agreeing to meet all remaining buyers hurdle prices are then asked to make their best and final bids for each buyer individually in block 7. At the fulfillment stage, the seller with the lowest bid for the group overall is conditionally awarded the contract based on the RFQ at block 8. Buyers and the conditionally winning seller exchange further information at this stage in order to make the final approval of each other and having done so, the process moves forward to final contract award at block 9."

Thus, it is the Examiner position that Moffett discloses the claimed invention, which claimed receiving bids from at least one candidate supplier over the computer network.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the present claims allows for several sellers to satisfy a buyer's requisition and, indeed, the disclosure of the present invention allows for the determination of an optimal award schedule involving several sellers) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's argument having been found unpersuasive, the rejection has not been withdrawn.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (571) 272-6782. The examiner can normally be reached on Monday- Friday (9:30-6:00) with Thursday Telework.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lynda Jasmin  
Primary Examiner  
Art Unit 3627

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